

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>ELIZABETH A. AND Z. L. PEARSON, JR.</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DENVER COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 60536</b></p>
<p><b>ORDER</b></p>	

**THIS MATTER** was heard by the Board of Assessment Appeals on January 14, 2013, Brooke B. Leer and MaryKay Kelley presiding. Z. L. Pearson, Jr., appeared pro se on behalf of Petitioners. Respondent was represented by Mitch Behr, Esq. Petitioners are requesting an abatement/refund of taxes on the subject property for tax years 2009 and 2010.

Subject property is described as follows:

**1551 Larimer Street, Unit 503, Denver, Colorado  
Denver County Schedule No. 02331-16-045-045**

The subject property is a 1,315 square foot condominium located in Larimer Place, a 1978 high-rise building constructed in downtown Denver.

Respondent assigned a value of \$355,600 for each tax year 2009 and 2010. Petitioners are requesting actual value of \$316,500.

Mr. Pearson presented an equalization argument based on actual values for Units 603 (\$320,400) and 703 (\$324,300). He described the two as identical in size to the subject but with superior views. His requested value for the subject unit reflects floor height and related views.

Mr. Pearson discussed the \$385,000 purchase of his unit in 2007 and the subsequent decline of the housing market, which he felt Respondent did not consider.

Mr. Pearson terminated the hearing following his testimony.

Petitioner failed to present sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax years 2009 and 2010.

Both Colorado constitution and state statutes require use of the market approach to value residential properties. Colo. Const. Art. X, §20(8)(c); Section 39-1-103(5)(a), C.R.S. Market approach considers sales of similar properties, sufficient to set a pattern, and analyzes individual attributes of each property's improvements, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes. Section 39-1-103(a)(a)(I), C.R.S.; *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo. 1997). Equalization arguments, on the other hand, that state that a subject property's value should conform to the values of similar properties, without regard to any quality or value differences, are not permissible. *Podoll*, 935 P.2d at 17.

Petitioners must prove by a preponderance of the evidence that assessor's valuation of the subject property was incorrect. *Podoll*, 935 P.2d at 18. The Board finds that Petitioners failed to meet their burden of proof that the Denver Assessor incorrectly valued Petitioners' property. The Board may not rely on Petitioners' equalization arguments; Petitioners did not develop a market approach to dispute the value as established by the Assessor.

### **ORDER:**

The petition is denied.

### **APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have

resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

**DATED and MAILED** this 24th day of January, 2013.

**BOARD OF ASSESSMENT APPEALS**

*Brooke B. Leer*



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Brooke B. Leer

*MaryKay Kelley*

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MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Milla Crichton*

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Milla Crichton